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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/693,973      | 10/23/2000  | Hirokazu Kondo       | Q58057              | 8686             |

7590 06/17/2004  
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2100 Pennsylvania Avenue NW  
Washington, DC 20037-3213

| EXAMINER |
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BURLESON, MICHAEL L

| ART UNIT | PAPER NUMBER |
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2626

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/693,973

Applicant(s)

KONDO, HIROKAZU

Examiner

Michael Burleson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7,9,10 and 13 is/are rejected.
- 7) ☐ Claim(s) 2,5,6,8,11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted was October 23, 2000. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

### ***Specification***

1. The disclosure is objected to because of the following informalities: " doe ", page 12, line 27, should be, -- dot --.

Appropriate correction is required.

### ***Claim Objections***

1. Claims 1,2,7 and 8 objected to because of the following informalities: " converging", should read, -- converting --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3,4,9,10 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claims 3,4,9 and 10, applicant teaches of establishing a conversion table so as to save a density of the image of black produced from only said image data K by said first device in a range except said image data  $K = 0\%$  or  $100\%$  at which the area percentage of the image is saved. Claim 1 teaches of generating a conversion table that saves an area percentage of an image of black produced from only said image data K by said first device, at said image data  $K = 0\%$  or  $100\%$ . It is unclear if there is more than one conversion table producing a range of the image data K or one conversion producing a range of the image data K.

4. Regarding claim 13, applicant teaches of said image data  $K = 0\%$  and  $100\%$ . There is no support for this teaching in the specification or drawings.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimazaki US 6396595.

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Shimazaki teaches of making standard color corrections (column 3, lines 44-46) and converting CMYK into C'M'Y'K' (figure 3), which reads on a method for converting image data D including image data K corresponding to black, to be processed by a first device, into image data D' including image data K' corresponding to black, to be processed by a second device, according to a conversion table. He also teaches of a test chart data generator that creates three dimensional conversion characteristics CMY and one dimensional conversion characteristics K for converting the color image data into their colorimetric values (column 4, lines 64-67 and column 5, lines 1-3), which reads on generating a color conversion table for converging said image data D into said image data D'. Shimazaki teaches of a test chart data generator (26), in which the test chart data comprises of halftone dot percentages of

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particular ranges, which are stored in standard color conversion table (38) (column 4, lines 32-67). He also teaches that the color image data K ranges from 0% to 100% (column 4, lines 35-40), which is consistent with applicant's teaching on page 9 of the specification. This reads on a condition for saving halftone dot area percentages of black produced from only said image data K by said first device, at said image data K = 0% or 100%. He also shows converting image data D into said image data D' with said conversion table (figure 3), which reads on converting said image data D into said image data D' with said conversion table for thereby generating a proof represented by area gradations of an image generated by said first device, with said second device.

Regarding claim 7, Shimazaki teaches of a standard conversion table (38), used for making standard color corrections (column 3, lines 44-46) and a color correcting processor (32) for converting CMYK into C'M'Y'K' (figure 3), which reads on converting image data D including image data K corresponding to black, to be processed by a first device, into image data D' including image data K' corresponding to black, to be processed by a second device, according to a conversion table. He also teaches of a test chart data generator that creates three dimensional conversion characteristics CMY and one dimensional conversion characteristics K for converting the color image data into their colorimetric values (column 4, lines 64-67 and column 5, lines 1-3), which reads on generating a color conversion table for converging said image data D into said image data D'. Shimazaki teaches of a test chart data generator (26), in which the test chart data comprises of halftone dot percentages of particular ranges, which are stored in standard color conversion table (38) (column 4, lines 32-67). He also teaches that

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the color image data K ranges from 0% to 100% (column 4, lines 35-40), which is consistent with applicant's teaching on page 9 of the specification. This reads on a condition for saving halftone dot area percentages of black produced from only said image data K by said first device, at said image data K = 0% or 100%. He also shows converting image data D into said image data D' with said conversion table (figure 3), which reads on converting said image data D into said image data D' with said conversion table for thereby generating a proof represented by area gradations of an image generated by said first device, with said second device.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being obvious over Shimazaki US 6396595 in view of Holub US 6043909.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an

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invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Regarding claim 3, As best understood by the claim, Shimazaki teaches of storing color conversion characteristics (e.g. density modulation) of one dimensional conversion  $R_k(K)$  (column 5, lines 62-65), which reads on establishing said conversion table so as to save a density of the image of black produced from only said image data  $K$  by said first device.

Shimazaki fails to teach of the density of the image of black is in a range except said image data  $K=0\%$  or  $100\%$  at which the area percentage of the image is saved.

Holub teaches that at each density, there is a range of possible black solutions from minimum to maximum (column 47, lines 46-49), which reads on a density of the

image black, in a range except said image data  $K=0\%$  or  $100\%$  at which the area percentage of the image is saved.

Shimazaki could have easily been modified to show the range of each density of black of Holub. This modification would have been obvious to one skilled in the art at the time of the invention to accurately compare the density of an image with the color of an image.

Regarding claim 9, As best understood by the claim, Shimazaki teaches of a standard conversion table (38) that stores color conversion characteristics (e.g. density modulation) of one dimensional conversion  $R_k(K)$  (column 5, lines 62-65), which reads on establishing said conversion table so as to save a density of the image of black produced from only said image data  $K$  by said first device.

Shimazaki fails to teach of the density of the image of black is in a range except said image data  $K=0\%$  or  $100\%$  at which the area percentage of the image is saved.

Holub teaches that at each density, there is a range of possible black solutions from minimum to maximum (column 47, lines 46-49), which reads on a density of the image black, in a range except said image data  $K=0\%$  or  $100\%$  at which the area percentage of the image is saved.

Shimazaki could have easily been modified to show the range of each density of black of Holub. This modification would have been obvious to one skilled in the art at the time of the invention to accurately compare the density of an image with the color of an image.

***Allowable Subject Matter***

5. Claim 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
6. Claims 4 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
7. Claims 2,5,6,8,11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


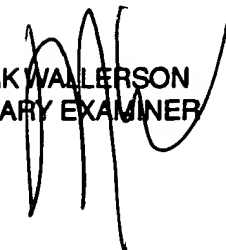
***Conclusion***

1. Any inquiry concerning this communication should be directed to Michael Burleson whose telephone number is (703) 305-8683 and fax number is (703) 746-3006. The examiner can normally be reached Monday thru Friday from 8:00 a.m. – 4:30p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly Williams can be reached at (703) 305-4863

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Michael Burleson  
Patent Examiner  
Art Unit 2626

MIb  
June 9, 2004

MARK WALLERSON  
PRIMARY EXAMINER